

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARILYN DANIELS,

Plaintiff,

-against-

FIDELITY INVESTMENTS; CHARTER
COMMUNICATIONS, INC.,

Defendants.

21-CV-10898 (LLS)

ORDER DIRECTING PAYMENT OF FEE
OR AMENDED IFP APPLICATION

LOUIS L. STANTON, United States District Judge:

Plaintiff, who is proceeding *pro se*, brings this action alleging that Defendants violated her rights. For the reasons set forth below, the Court directs Plaintiff to file an amended application to proceed *in forma pauperis* (IFP), that is, without prepayment of fees, within 30 days of the date of this order.

BACKGROUND

Plaintiff alleges that she is “an aboriginal indigenous Asiatic Niitsitapi Moor national,” not a United States citizen. (ECF 2, at 1.) She brings the complaint accompanied by an IFP application. On the IFP application, Plaintiff writes across the questions asking about her sources of income, assets, and expenses, “4th Amendment Constitution for the United States of North America” (ECF 1), and refers the Court to a document she filed titled “Writ to Proceed PRO BONO: FREE ACCESS TO COURT” (ECF 4). In that document, Plaintiff asserts that she submitted the writ “in lieu of the IFP as Free Access to the Courts is a right of the American people and filling out such prefabricated form may compromise Claimant’s status as such form is for U.S. citizens.” (*Id.* at ¶ 2.) She further claims the following:

This Writ is made Pro Bono because free access to the courts is a right of the people: Affiant is not a poor person, prisoner or pauper. Affiant is an heiress and proceeds herein Pro Bono invoking/enforcing the Constitution for the united

States of North America Republic, and treaties the supreme law of the land which protects affiant's right to free access to the courts. All officials (judges, lawyers, administrative clerks...) take an oath to uphold said Constitution and must abide thereby. See Article VI of the United States Constitution of North America Republic 1791 and Amendments IX and X thereof.

(*Id.* at ¶ 3) (all emphasis, capitalization, and punctuation in the original).

DISCUSSION

All parties instituting any civil action, suit, or proceeding in a district court of the United States, except an application for writ of *habeas corpus*, must pay \$402.00 in fees – a \$350.00 filing fee plus a \$52.00 administrative fee. *See* 28 U.S.C. § 1914(a). An action may proceed without prepayment of the fee only if the litigant is granted leave to proceed IFP under 28 U.S.C. § 1915(a). The federal IFP statute, 28 U.S.C. § 1915, is intended to guarantee that no citizen shall be denied access to the courts “solely because his poverty makes it impossible for him [or her] to pay or secure the costs.” *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 342 (1948). The statute ensures “that indigent persons have equal access to the judicial system” as those who can afford payment of court fees. *Hobbs v. Cnty. of Westchester*, No. 00-CV-8170 (JSM), 2002 WL 868269, at *1 (S.D.N.Y. May 3, 2002). A person need not be “absolutely destitute” to proceed IFP. *Adkins*, 335 U.S. at 339. Rather, a person seeking IFP status need only declare that he or she “cannot because of his [or her] poverty ‘pay or give security for the costs * * and still be able to provide’ himself [or herself] and dependents ‘with the necessities of life.’” *Id.* Courts “have broad discretion to determine whether a litigant has sufficiently demonstrated poverty.” *Alli v. Moore*, No. 14-CV-6597 (AT), 2015 WL 5821174, at *1 (S.D.N.Y. Sept. 15, 2015) (citations omitted).

Plaintiff does not have a right of free access to the court as she contends, and neither her IFP application nor writ provides sufficient information concerning her ability to pay the filing

fee. To proceed with this action, within thirty days of the date of this order, Plaintiff must either pay the \$402.00 in fees or submit an amended IFP application. If Plaintiff submits an amended IFP application, it should be labeled with docket number 21-CV-10898 (LLS), and provide sufficient information concerning her financial status for the Court to determine whether she is unable to pay the filing fee. If the Court grants the amended IFP application, Plaintiff will be permitted to proceed without prepayment of fees. *See* 28 U.S.C. § 1915(a)(1). The Court further denies Plaintiff's writ.

No summons shall issue at this time. If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

CONCLUSION

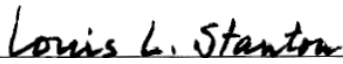
The Court denies Plaintiff's Writ to Proceed PRO BONO: FREE ACCESS TO COURT (ECF 4). Within thirty days of the date of this order, Plaintiff must either pay the \$402.00 filing fee or submit an amended IFP application.

If Plaintiff complies with this order, the case shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, the action will be dismissed.

Plaintiff consents to electronic service. (ECF 3.)

SO ORDERED.

Dated: February 10, 2022
New York, New York



Louis L. Stanton
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(full name of the plaintiff or petitioner applying (each person
must submit a separate application))

-against-

CV _____ () ()

(Provide docket number, if available; if filing this with
your complaint, you will not yet have a docket number.)

(full name(s) of the defendant(s)/respondent(s))

AMENDED APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS

I am a plaintiff/petitioner in this case and declare that I am unable to pay the costs of these proceedings and I believe that I am entitled to the relief requested in this action. In support of this application to proceed *in forma pauperis* (IFP) (without prepaying fees or costs), I declare that the responses below are true:

1. Are you incarcerated? ☐ Yes ☐ No (If "No," go to Question 2.)

I am being held at: _____

Do you receive any payment from this institution? ☐ Yes ☐ No

Monthly amount: _____

If I am a prisoner, *see* 28 U.S.C. § 1915(h), I have attached to this document a "Prisoner Authorization" directing the facility where I am incarcerated to deduct the filing fee from my account in installments and to send to the Court certified copies of my account statements for the past six months. *See* 28 U.S.C. § 1915(a)(2), (b). I understand that this means that I will be required to pay the full filing fee.

2. Are you presently employed? ☐ Yes ☐ No

If "yes," my employer's name and address are: _____

Gross monthly pay or wages: _____

If "no," what was your last date of employment? _____

Gross monthly wages at the time: _____

3. In addition to your income stated above (which you should not repeat here), have you or anyone else living at the same residence as you received more than \$200 in the past 12 months from any of the following sources? Check all that apply.

(a) Business, profession, or other self-employment	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(b) Rent payments, interest, or dividends	<input type="checkbox"/> Yes	<input type="checkbox"/> No

- | | | |
|---------------------------------------------------------------------------------------------|------------------------------|-----------------------------|
| (c) Pension, annuity, or life insurance payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability or worker's compensation payments | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts or inheritances | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other public benefits (unemployment, social security, food stamps, veteran's, etc.) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (g) Any other sources | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

If you answered "No" to all of the questions above, explain how you are paying your expenses:

4. How much money do you have in cash or in a checking, savings, or inmate account?

5. Do you own any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value, including any item of value held in someone else's name? If so, describe the property and its approximate value:

6. Do you have any housing, transportation, utilities, or loan payments, or other regular monthly expenses? If so, describe and provide the amount of the monthly expense:

7. List all people who are dependent on you for support, your relationship with each person, and how much you contribute to their support (only provide initials for minors under 18):

8. Do you have any debts or financial obligations not described above? If so, describe the amounts owed and to whom they are payable:

Declaration: I declare under penalty of perjury that the above information is true. I understand that a false statement may result in a dismissal of my claims.

Dated

Signature

Name (Last, First, MI)

Prison Identification # (if incarcerated)

Address

City

State

Zip Code

Telephone Number

E-mail Address (if available)